

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

DOLORES LOZANO,

Plaintiff,

v.

BAYLOR UNIVERSITY; ART BRILES;
IAN MCCAWE,

Defendant.

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Civil Action No. 6:16-CV-00403-RP

**BAYLOR'S SUPPLEMENTAL ADVISORY WITHDRAWING CERTAIN OBJECTIONS
TO FINDINGS OF FACT AND MARGOLIS HEALY REPORT**

TO THE HONORABLE JUDGE ROBERT PITMAN:

At the pretrial conference originally scheduled for tomorrow, Baylor intended to inform the Court that, in the process of reviewing the motions in limine and responses thereto, and in attempting to identify potential areas for agreement, Baylor determined that it would withdraw certain of its objections stated in Baylor MIL No. 2 to the Margolis Healy Report and in MIL No. 25 to the "Findings of Fact."

I. Findings of Fact

With respect to the Findings of Fact, Baylor's primary objections are that it contains legal conclusions regarding the ultimate legal issue in the case—whether Baylor complied with and/or violated Title IX—and the Findings would be confusing to the jury because they were based on three school years, one of which was after Plaintiff graduated (2014-2015), and the Findings were based on a 46-page guidance document issued by the Office of Civil Rights on April 29, 2014 titled "Questions & Answers on Title IX and Sexual Violence." (Dkt. 255-8, MIL No. 25)

Baylor now withdraws its objection to the Findings except for the five legal conclusions that are highlighted on the attached exhibit and reflect conclusions on the ultimate legal issue in the case.

II. Margolis Healy Report

With respect to the Margolis Healy report, Baylor withdraws its objections except as to Part II-Clery Act Compliance Assessment (“Part II”) and the Executive Summary of Part II at the beginning of the report. Baylor continues to object to Part II and the Executive Summary related to Part II on the basis that “evidence regarding compliance or noncompliance” with the statute “**shall not be admissible** as evidence in any proceeding of any court,” except a federal agency enforcement action. 20 U.S.C. § 1092(f)(14)(B) (emphasis added). (Dkt. 255-8, MIL No. 1).

Baylor intends to address the issues which may arise because the Findings and Margolis Healy report are based in part on extensive OCR guidance issued in April 2014 after Plaintiff’s assault with proposed instructions which can be submitted with the jury charge.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was served upon opposing counsel on September 28, 2023, via the Court's ECF/CMF electronic filing and service system as follows:

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